

PATENT
Docket No.: SK99003C1(99RSS213CON)
10/694,451

REMARKS

STATUS SUMMARY

Claims 1-64 are pending in the present application. The Examiner has rejected claims 11, 12, 28, 29, 42, 46-48, 52-54, and 59 under 35 U.S.C § 102(b) as being anticipated by U.S. Patent No. 5,590,402 to *Samson et al.* ("*Samson*"). The Examiner has also rejected claims 13, 17-19, 21, 22, 24, 30, 34-36, 39, and 41 under 35 U.S.C § 103(a) as being unpatentable over *Samson* in view of U.S. Patent No. 6,317,607 to *Tomcik et al.* ("*Tomcik*"), and claims 13, 17-19, 21, 22, 24, 30, 34-36, 39, and 41 as being unpatentable over *Samson* in view *Tomcik* and further in view of U.S. Patent No. 6,373,823 to *Chen et al.* ("*Chen*").

These formal matters identified in the Office Action are addressed herein below.

RESPONSE TO CLAIM REJECTIONS UNDER 35 USC § 102(b)

The Examiner has rejected claims 11, 12, 28, 29, 42, 46-48, 52-54, and 59 under 35 U.S.C § 102(b) as being anticipated by *Samson*. MPEP § 2131 provides:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). ... "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, ...

Samson does not teach each and every claimed element of claims 11, 12, 28, 29, 42, 46-48, 52-54, and 59. Therefore, Applicant respectfully traverses these rejections.

PATENT
Docket No.: SK99003C1(99RSS213CON)
10/694,451

CLAIMS 11, 28 and 42

Independent claim 11 states:

A system comprising:
a mode selector for selecting a mode of operation of a transmitter; and
a controller that adjusts the operating current of at least part of the transmitter
responsive to the mode selector.

Independent claim 28 states:

A system comprising:
means for selecting a mode of operation of a transmitter; and
means for adjusting the operating current of at least part of the transmitter
responsive to the mode selector means.

Independent claim 42 states:

A method for dynamically varying the operating current of at least part of a transmitter,
the method comprising:
selecting a mode of operation for the transmitter; and
adjusting the operating current of at least part of the transmitter in response to selecting
the mode of operation.

The Examiner states that, regarding claims 11, 28, and 42, *Samson* "teaches a multi-mode transmitter system comprising: a mode selector for selecting a mode of operation of a transmitter (i.e. mode select signal 106, col. 2, lines 29-40); and a controller that adjusts the operating current of at least part of the transmitter responsive to the mode selector (i.e. [a] microprocessor used to control transmitter, col. 2, lines 35-67).

In response, Applicant respectfully disagrees that *Samson* teaches each and every aspect of the claimed invention of claims 11, 28, and 42 either explicitly or impliedly as required under 35 U.S.C. § 102(b) and MPEP §§ 706 and 2131.

In general, *Samson* teaches a dual-mode transmitter configured to automatically adjust the frequency deviation level of a signal being transmitted by providing attenuation

PATENT
Docket No.: SK99003C1(99RSS213CON)
10/694,451

of the deviation levels when changing from a first, or wideband, mode to a second, or narrowband, mode, as well as amplification of the signal. (Col. 2, lines 15-22). This is done by circuitry that adjusts for the difference in the maximum voice deviation from the wideband mode to the narrowband mode by attenuating the signal (FIG. 2, col. 3, lines 1-25), and for the difference in the average voice deviation from the wideband mode to the narrowband mode by amplifying the signal (FIG. 3, col. 3, lines 26-55).

Thus *Samson* does not teach a mode selector for selecting a mode of operation of a transmitter but does teach a "mode select signal 106, which is used to toggle a transmission gate within circuitry 103 during operation." (Col. 2, lines 32-35). Also, *Samson* does not teach a controller that adjusts the operating current of at least part of the transmitter responsive to the mode selector but does teach the use of transmission gates (FIG. 2, 206, and FIG. 3, 312) to alter the feedback resistance of circuitry in the dual-mode transmitter. In contrast, in an example implementation of the claimed invention, the operating current of a mixer 220, FIG. 2, and a pre-driver 224, FIG. 2, is set by the controller 110, FIG. 1, via signal path 224. (Page 13, lines 1-2.)

Therefore, *Samson* fails to teach or describe all of Applicant's claim limitations in independent claims 11, 28, and 42. Thus, Applicant believes that independent claims 11, 28, and 42 are in condition for allowance and respectfully requests that the Examiner withdraw the rejection of these claims under 35 U.S.C. § 102(b).

CLAIMS 12 and 29

Claims 12 and 29 depend directly from allowable claims 11 and 28, respectively, and therefore are distinguishable over *Samson* for at least the same reasons. Moreover,

PATENT
Docket No.: SK99003C1(99RSS213CON)
10/694,451

claims 12 and 29 are directed to a mode selector being "configured to select a mode responsive to a command received over a user interface." In FIG. 1, an example implementation of a command interface 106 is shown that receives either an input from a user (not shown) indicative of the selected mode of operation or a signal representative of the desired transmit power from a base station (not shown). This is not taught in *Samson* because all of the adjustments of deviation levels in the dual-mode transmitter of *Samson* are done automatically. (Col. 1, lines 51-55).

In view of the foregoing, Applicant respectfully submits that claims 12 and 29 are patentable under 35 U.S.C. § 102(b) over *Samson*, and respectfully requests that the Examiner withdraw the rejection of these claims under 35 U.S.C. § 102(b).

CLAIMS 48, 54, and 59

Independent claims 48, 54, and 59 are claims stating a signal-bearing medium, a computer data signal embodied in a carrier wave, and a computer-medium having software, respectively. These claims state the same limitations that are stated in allowable claims 11, 28, and 42, and therefore are also distinguishable over *Samson* for the same reasons that are set forth with regard to claims 11, 28, and 42.

Therefore, *Samson* fails to teach or describe all of Applicant's claim limitations in independent claims 48, 54, and 59. Thus, Applicant believes that independent claims 48, 54, and 59 are in condition for allowance and respectfully requests that the Examiner withdraw the rejection of these claims under 35 U.S.C. § 102(b).

PATENT
Docket No.: SK99003C1(99RSS213CON)
10/694,451

CLAIMS 46, 47, 52, and 53

Claims 46 and 47 depend directly or indirectly from allowable claim 42, and claims 52 and 53 depend directly or indirectly from allowable claim 48. Therefore, these claims are distinguishable over *Samson* for at least the same reasons.

In view of the foregoing, Applicant respectfully submits that claims 46, 47, 52, and 53 are also patentable under 35 U.S.C. § 102(b) over *Samson*, and respectfully requests that the Examiner withdraw the rejection of these claims under 35 U.S.C. § 102(b).

RESPONSE TO CLAIM REJECTIONS UNDER 35 USC § 103(a)

The Examiner has rejected claims 13, 17-19, 21, 22, 24, 30, 34-36, 39, and 41 under 35 U.S.C §103(a) as being unpatentable over *Samson* in view of *Tomcik*, and has also rejected claims 13, 17-19, 21, 22, 24, 30, 34-36, 39, and 41 under 35 U.S.C §103(a) as being unpatentable over *Samson* in view of *Tomcik* further in view of *Chen*. Applicant respectfully traverses these rejections.

Applicant believes, for the reasons stated above in his response to the rejection of claims 11, 12, 28, 29, 42, 46-48, 52-54, and 59 under 35 U.S.C §102(b), that *Samson* does not teach each and every claimed element of claims 11, 12, 28, 29, 42, 46-48, 52-54, and 59. Specifically, *Samson* does not teach a mode selector for selecting a mode of operation of a transmitter, nor does it teach a controller that adjusts the operating current of at least part of the transmitter responsive to the mode selector.

PATENT
Docket No.: SK99003C1(99RSS213CON)
10/694,451

In general, *Tomcik* relates to a method and apparatus for rejecting a request for call initialization to a device capable of multi-mode communications. (Col. 2, lines 47-49.) A particular embodiment relates to a wireless communication device that allows a user to select one or more desired communication modes in which to operate and that rejects incoming calls having a communication mode different than the selected modes. (Col. 8, lines 46-51.)

Tomcik therefore also does not teach these two elements. Accordingly, even if *Samson* and *Tomcik* were combined, this combination would not teach or suggest all of the claim limitations of independent claims 11 and 28.

Chen, which teaches, in general, a power control system in which a mobile station generates power control commands to which a base responds (col. 5, lines 51-65), also does not teach the two elements of claims 11 and 28 referred to in Applicant's response to the rejection of claims 11, 12, 28, 29, 42, 46-48, 52-54, and 59 under 35 U.S.C §102(b). Therefore, a combination of *Samson*, *Tomcik*, and *Chen* also fails to teach each and every claimed element of independent claims 11 and 28, and thus Applicant respectfully requests that the Examiner withdraw the rejection of claims 13, 17-19, 21, 22, 24, 30, 34-36, 39, and 41 under 35 U.S.C §103(a).

CLAIMS 13 and 30

Claim 13 is indirectly dependent on allowable claim 11 and includes all the claim elements of claim 11. Claim 30 is indirectly dependent on allowable claim 28 and includes all the claim elements of claim 28. Therefore, because claims 11 and 28 are allowable, claims 13 and 30 that add additional limitations to their respective base claims are also allowable, and

PATENT
Docket No.: SK99003C1(99RSS213CON)
10/694,451

Applicant respectfully requests that the Examiner withdraw the rejection of claims 13 and 30 under 35 U.S.C §103(a).

CLAIMS 19 and 36

Claim 19 is indirectly dependent on allowable claim 11 and includes all of the claim elements of claim 11. Claim 36 is indirectly dependent on allowable claim 28 and includes all of the claim elements of claim 28. Therefore, because claims 11 and 28 are allowable, claims 19 and 36 that add additional limitations to their respective base claims are also allowable, and Applicant respectfully requests that the Examiner withdraw the rejection of claims 19 and 36 under 35 U.S.C §103(a).

CLAIMS 21, 22, 24, 38, 39, and 41

Claim 21 is directly dependent on allowable claim 11 and includes all of the claim elements of claim 11. Claims 22 and 24 are indirectly dependent on allowable claim 11 and include all of the claim elements of claim 11. Claim 38 is directly dependent on allowable claim 28 and includes all of the claim elements of claim 28. Claims 39 and 41 are indirectly dependent on allowable claim 28 and include all of the claim elements of claim 28. Therefore, because claims 11 and 28 are allowable, claims 21, 22, 24, 38, 39, and 41 that add additional limitations to their respective base claims are also allowable, and Applicant respectfully requests that the Examiner withdraw the rejection of claims 21, 22, 24, 38, 39, and 41.

PATENT
Docket No.: SK99003C1(99RSS213CON)
10/694,451

CLAIM REJECTIONS – DOUBLE PATENTING

Claims 1-64 are rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1-19 of U.S. Patent No. 6,747,596.

In response, Applicants file herewith a Terminal Disclaimer in accordance with 37 C.F.R. 1.321(c). In view of the Terminal Disclaimer, Applicant respectfully submits that the rejection of claims 1-64 based on double patenting is now overcome, and requests that this rejection be withdrawn.

RESPONSE TO CLAIMS OBJECTED TO
AS BEING DEPENDENT UPON A REJECTED BASE CLAIM

First, Applicant thanks the Examiner for his allowance of claims 1-10, 25-27, and 64. The Examiner has objected to claims 14-16, 20, 31-33, 37, 43-45, 49-51, 55-58, and 60-63 as being dependent upon a rejected base claim, but has also stated that claims 14-16, 20, 31-33, 37, 43-45, 49-51, 55-58, and 60-63 would be allowable if re-written in independent form including all of the limitations of the base claim and any intervening claims.

In response, Applicant thanks the Examiner for allowing claims 14-16, 20, 31-33, 37, 43-45, 49-51, 55-58, and 60-63 if re-written; however, Applicant believes that re-writing claims 14-16, 20, 31-33, 37, 43-45, 49-51, 55-58, and 60-63 in independent form is not needed at this time because, as stated above, *Samson* fails to teach or describe all of Applicant's claim limitations in independent claims 11, 28, 42, 48, 54, and 59. Thus, independent claims 11, 28, 42, 48, 54, and 59 are in condition for allowance, and dependent claims 14-16, 20, 31-33, 37, 43-45, 49-51, 55-58, and 60-63 that depend directly or indirectly from allowable independent claims 11, 28, 42, 48, 54, and 59 are also in condition for allowance.

- 10 of 12 -

PATENT
Docket No.: SK99003C1(99RSS213CON)
10/694,451

Therefore, Applicant respectfully requests that the Examiner withdraw the objection to claims 14-16, 20, 31-33, 37, 43-45, 49-51, 55-58, and 60-63 because these claims are in condition for allowance.

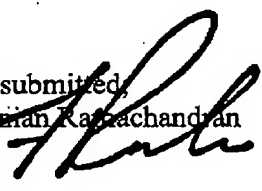
PATENT
Docket No.: SK99003C1(99RSS213CON)
10/694,451

CONCLUSION

In light of the above amendments and remarks, it is respectfully submitted that the present application is now in proper condition for allowance, and an early notice to such effect is earnestly solicited.

If any small matter should remain outstanding after the Patent Examiner has had an opportunity to review the above Remarks, the Patent Examiner is respectfully requested to telephone the undersigned patent attorney in order to resolve these matters and avoid the issuance of another Official Action.

Respectfully submitted,
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